



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/823,137	04/13/2004	Craig D. Quarberg	20040030.ORI	4527
23595	7590	12/29/2005	EXAMINER	
NIKOLAI & MERSEREAU, P.A. 900 SECOND AVENUE SOUTH SUITE 820 MINNEAPOLIS, MN 55402			LUGO, CARLOS	
			ART UNIT	PAPER NUMBER
			3676	

DATE MAILED: 12/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/823,137

Applicant(s)

QUARBERG, CRAIG D.

Examiner

Carlos Lugo

Art Unit

3676

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 October 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 8-19 is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☒ Claim(s) 7 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 April 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input checked="" type="checkbox"/> Other: <u>attachment #1</u> . |

DETAILED ACTION

1. This Office Action is in response to applicant's amendment filed on October 19, 2005.

Drawings

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the longitudinal axis of the yoke base must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement-drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the examiner does not accept the changes, the applicant will be notified and informed of any required corrective

action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

3. **Claim 1 is objected** to because of the following informalities:

- Claim 1 Line 10, change "the longitudinal axis" to -a longitudinal axis-.

Appropriate correction is required.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. **Claims 1-4 are rejected** under 35 U.S.C. 103(a) as being unpatentable over US Pat No 1,304,394 to Shyer in view of US Pat No 4,395,065 to Nelson et al (Nelson).

Regarding claims 1,3 and 4, Shyer discloses a security brace comprising a plurality of pole members including upper and lower ends (6 and 8); and a block member (10) at the upper end of the pole members and having a top planar surface with a yoke member extending upwardly from the top planar surface (see attachment #1).

The yoke member includes a yoke base and a head member sloping at a predetermined angle to a longitudinal axis of the yoke base (at any convenient point, see attachment #1).

However, Shyer fails to disclose that the lower end includes a foot member and that the block member is "secured" to the upper end of the poles.

With respect to the lower end having a foot member, Nelson teaches that it is well known in the art to have a foot member (22) attached to the end of a pole (10). Further, Nelson teaches that the foot member comprises a non-skid floor-engaging surface.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the brace described by Shyer with a foot member, as taught by Nelson, in order to prevent the brace from sliding when the yoke is attached to the knob.

As to the block member being "secured" to the upper end of the pole, Shyer discloses that the upper ends of the poles and the block member are a one-piece construction.

Nelson teaches that it is well known in the art to have a block member (24) secured to the upper end of the pole (20) as separate members connected together. Also, Nelson teaches that the pole member (20) can be secured to the block member (24) by an aperture in a bottom surface of the block, passing through the aperture and held in the block member by a locking member.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the brace described by Shyer with separate members connected together, as taught by Nelson, since the fact that having separate elements fastened together, in place of a one piece construction, is considered as a

design consideration within the art because it would not affect the securing of the door with the securing brace.

As to claim 2, Shyer discloses that the plurality of pole members each comprise first and second tubular telescoping segments and means for locking the segments relative to one another at a predetermined composite length.

6. **Claims 5 and 6 are rejected** under 35 U.S.C. 103(a) as being unpatentable over US Pat No 1,304,394 to Shyer in view of US Pat No 4,395,065 to Nelson et al (Nelson) as applied to claim 1 above, and further in view of US Pat No 5,064,232 to Quarberg.

Shyer, as modified by Nelson, discloses that the foot member comprises a non-skid engaging surface. However, Shyer, as modified by Nelson, fails to disclose that the surface is an elastomeric pad and that includes a plurality of downwardly projecting corrugations.

Quarberg teaches that it is well known in the art to have a non-skid engaging surface (30) that is an elastomeric pad and also illustrates that includes a plurality of corrugations.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the foot member described by Shyer, as modified by Nelson, with an elastomeric pad, as taught by Quarberg, in order to prevent the brace from sliding when the yoke is attached to the knob.

Allowable Subject Matter

7. **Claims 8-19 are allowed.**

8. **Claim 7 is objected** to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

9. Applicant's arguments filed on October 19, 2005 have been fully considered but they are not persuasive.

The applicant argues that the yoke member described by Shyer does not extend upwardly from the top planar surface of the block member (Page 8 Line 11). As seen in attachment #1, Shyer clearly illustrates that the yoke member extends upwardly from the top planar surface. Therefore, the argument is not persuasive.

The applicant further argues that neither Shyer nor Nelson disclose that the head member sloping at a predetermined angle to a longitudinal axis of the yoke base (Page 8 Line 17), the argument is not persuasive.

First, the applicant fails to illustrate the "longitudinal axis". Second, Shyer illustrates that the head portion of the yoke slopes at a "predetermined angle" with respect to a longitudinal axis (at any convenient point). Therefore, the argument is not persuasive.

As to new claims 8 and 14, the claims are allowed because the claims include the limitation presented in claim 7 that was previously indicated as allowable subject matter.

Conclusion

10. Applicant's amendment, that the yoke member includes a yoke base and a head member sloping at a predetermined angle to a longitudinal axis of the yoke base necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carlos Lugo whose telephone number is 571-272-7058. The examiner can normally be reached on 9-6pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Glessner can be reached on 571-272-6843. The fax phone number for the organization where this application or proceeding is assigned is 571-272-7049.

Art Unit: 3676

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-5771.

C-L

Carlos Lugo
AU 3676

December 14, 2005.


BRIAN E. GLESSNER
SUPERVISORY PATENT EXAMINER

